

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5572 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NARAYANBHAI DHIRUBHAI TANDAL

Versus

COLLECTOR OF VALSAD

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Appearance:

MR RN SHAH for Petitioner

MR KT DAVE, APP for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/02/98

ORAL JUDGMENT

Heard the learned counsel for the parties.

2. The petitioner, who has constructed his house on the land given by the Government has approached this Court against the order of the Deputy Collector, Navsari, annexure 'B' dated 5.5.86, under which the said authority dismissed the application of the petitioner for interim

stay as well as the appeal.

3. The case of the petitioner is that his house is situated on the bank of sea and on account of flow of water from the eastern and western side and to protect the house, he had constructed a wall and put up pillars. If the pillars and walls are removed, the petitioner's property will be demolished by flow of water of sea. It will also affect the houses constructed on the lands in question.

4. This petition has been admitted by this Court on 20th October 1986 and interim relief in terms of para IV(C) has been granted. This Court has further ordered that it would be open to the respondent to regularise the construction or to sell the land to the petitioner.

5. The learned counsel for the respondents very fairly submitted that the options which have been given to the respondent by this Court in its order dated 20th October 1986 will be considered by respondent No.1. However, the learned counsel for the respondents is unable to say why for all these years the respondents have not undertaken to decide on the options as given by this Court. However, the matter may be delayed, but it is not dead and interest of justice will be met in case this Special Civil Application is disposed of with directions to respondent No.1 to consider the question of regularising the construction made by petitioner or to sell the land to the petitioner. This exercise has to be undertaken by respondent No.1 within a period of three months from the date of receipt of writ of this order. In case the construction is regularised or the land is sold to the petitioner, then the consequential orders may be passed. However, while considering the case of regularisation and/or sell of the land in dispute to the petitioner, the respondent No.1 shall take care of the fact that the petitioner is only a Fisherman. In case none of the options are acceptable by respondent No.1, then a reasoned order may be passed and a copy of the same may be sent to the petitioner by registered post A.D. Before passing any adverse orders against the petitioner, it is expected of the respondents to give him opportunity of personal hearing. In case of difficulty, liberty is granted to the petitioner for revival of this Special Civil Application. No order as to costs.

Rule stands disposed of accordingly.

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(sunil)